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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,629	03/16/2001	Dan Edward Curtis	RSW920010035US1	7357

7590 08/19/2004

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EXAMINER

REAGAN, JAMES A

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/810,629

Applicant(s)

CURTIS ET AL.

Examiner

James A. Reagan

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in response to the amendment filed on 05 August 2004.
2. Claims 1-30 have been examined.

RESPONSE TO ARGUMENTS

3. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gershman and further in view of Brockman et al., (US 2002/0123919 A1).

Examiner's Note: The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Claims 1-3 7, 11, 15, 19, 23, and 27:

Gershman discloses a method for characterizing a service provider (Abstract; Fig 1A, 16, associated text; C34, L8-42), essentially disclosing:

- *gathering information on characteristics of a service provider;*
- *analyzing the information to provide an outcome;*
- *generating a report responsive to the outcome; and*
- *providing the report to at least two clients of the service provider;*
- *wherein the acts of analyzing, generating, and providing are performed by a management service.*

Gershman does not specifically disclose that the service providers are ASPs and/or ISPs. However, Gershman does teach that all types of vendors/suppliers/service providers may be targets for analysis reports (Fig 1A). Moreover, Brockman discloses a management service method and system that targets a telecommunications service provider (Abstract; Summary of the Invention). ASPs and ISPs are vendors playing major roles in business applications and telecommunications. Therefore, it would have been obvious for one ordinarily skilled in the art at the time the invention was made to have adapted Gershman's system to many different types of providers, including telecommunications vendors such as ISPs, as taught by Brockman, and/or to ASPs, because the system can easily be adapted to any type of provider, and as such, would increase the revenue stream for the management service. In addition, Gershman teaches that "availability" of products/services is a significant characteristic for customers to learn about and make decisions on (Summary of the Invention; Fig 10A, associated text; C2, L65). Brockman, erstwhile, discloses that "performance" is yet another yardstick by which clients should measure their intended or current vendors (Par. 17, 66-67, 106-109). Other significant characteristics such as price, customer service, and others may be used in the analyses and reports, as taught by both references. Therefore it would have been obvious to one ordinarily skilled in the art at the time the invention was made to have included "performance", "availability", and "security" the

main characteristics to analyze and report on, in the case of ASPs and ISPs, because those are by far the most important features distinguishing one vendor from another in this field.

Claim 4:

Gershman discloses all the limitations of claim 1. Neither Gershman nor Brockman specifically disclose *the act of providing comprises the act of selling the report*. Gershman's system however, is directed toward consumers and Brockman's to businesses. Therefore, it's obvious that both systems are designed to offer services for payment from their target audiences. It would have been obvious to one ordinarily skilled in the art at the time the invention was made that management reports such as those contemplated by both references would not be offered free of charge.

Claims 5 and 6:

Gershman discloses all the limitations of claim 1. Gershman further teaches that his reports will be available to clients on-line (Fig 16, associated text) as well as in hard copy (C46, L64).

Claims 8, 12, 16, 20, 24, and 28:

Gershman in view of Brockman discloses all the limitations of claims 7, 11, 15, 19, 23, and 27, respectively. Using the same analysis as for claim 4 above, Gershman and Brockman further disclose: *the act of providing comprises the act of selling the report*.

Claims 9, 13, 17, 21, 25 and 29:

Gershman in view of Brockman discloses all the limitations of claims 7, 11, 15, 19, 23, and 27, respectively. Gershman further discloses: *the report comprises hard copy* (see claim 5 above).

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Claims 10, 14, 18, 22, 26, and 30:

Gershman in view of Brockman discloses all the limitations of claims 7, 11, 15, 19, 23, and 27, respectively. Gershman further discloses: *the report comprises soft copy* (see claim 6 above).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **James A. Reagan** whose telephone number is **(703) 306-9131**. The examiner can normally be reached on Monday-Friday, 9:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **James Trammell** can be reached at (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 305-3900**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 305-7687 [Official communications; including

After Final communications labeled "Box AF"]

(703) 308-1396 [Informal/Draft communications, labeled "PROPOSED"

or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.

JAR
16 August 2004

